

In re Patent Application of
Daniell
Serial No.: 10/519,820
Filed: 12/30/2004

REMARKS

Applicant provides the following remarks in support of the patentability of the claims and respectfully requests the Examiner's careful consideration in that regard.

In The Specification

Applicant acknowledges the Examiner's comment regarding a list of references incorporated in the specification, rather than in a separate paper for the Office's consideration.

As the Examiner may have noted, undersigned counsel took over prosecution of this application from a previous law firm and has no representation to make at this time regarding the desirability of Applicant having previously provided the list of references in a separate paper.

The Claim Objections And Concerns Under Section 112 Have Been Addressed

All objected to claims and claims about which the Examiner expressed concern with regard to Section 112, have been amended to address those issues. Applicant believes all claims are now in proper form and respectfully requests the withdrawal of the objections and rejections under Section 112.

The Cited Reference Does Not Qualify As Prior Art

The Examiner has cited under 35 USC 102(b) Applicant's own international application (WO 01/72959), which was published on 4 October 2001.

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Applicant brings to the Examiner's attention that the present application is the national stage application of PCT/US03/21159, which claims priority to US provisional application No. 60/393,439, filed on July 3, 2002.

Accordingly, the publication date of the cited WO reference, 4 October 2001, is not "more than one year prior to the date of the application for patent in the United States," as required under 35 USC 102(b) for qualifying prior art.

On that basis, Applicant respectfully requests that the Examiner withdraw all claim rejections which rely on WO 01/72959 as a reference. This request clearly should apply to rejections under Sections 102 and 103.

Consequently, Applicant believes the application should be in condition for allowance and respectfully requests such action from the Examiner.

If the further processing of the application could be facilitated through a telephone conference between the Examiner and the undersigned, the Examiner is respectfully requested to telephone the undersigned.

Respectfully submitted,

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